

FOCUS

WORKERS' COMPENSATION NEWS



SUMMER

1994

PLEASE RETURN

A Message From the Administrator . . .

STATE DOCUMENTS COLLECTION

Chuck Hunter, Administrator

Employment Relations Division

SEP 11 1995

MONTANA STATE LIBRARY
1515 E. 6th AVE.
HELENA, MONTANA 59620

See
MAR 31 1997

Welcome to the 1st edition of *Focus on Workers' Compensation*. The purpose of this publication is to provide those parties interested in the Workers' Compensation system with up-to-date and in-depth information about that system. Our initial focus will be to explain the many changes that are taking place in our system as a result of recent legislation signed into law by Governor Racicot.

Another primary goal of this publication is to reach out to employers. In a survey conducted by members of the Montana State University Business College, we found that employers want and need more information about workers' compensation, and feel left out of the information loop. We hope to bring employers and businesses into that loop.

Let me begin by explaining who we are. The Employment Relations Division, a part of the Department of Labor and Industry, is responsible for administering the regulatory functions of the Workers' Compensation system. We provide regulatory services to all workers' compensation insurers, including self-insurers, private insurance companies, and the State Compensation Insurance Fund.

We also provide claims assistance and dispute resolution services, safety services, and workers' compensation information services. Another major component of our organization is compliance functions, in which we seek to ensure that all parties to our system are receiving their rights and are upholding their responsibilities. You will find a listing of functions along with the pertinent phone numbers on page 8 of this newsletter, should you wish to contact us.

Our first issue has a primary focus on safety, due to the recent passage of Montana's Safety Culture Act, which requires all employers to establish safety programs in their worksites. We hope this issue provides you with information to either help you get started with your safety program, or to help you improve upon the programs you already have.

Finally, let me say that we hope to hear from you about this publication. It is intended to be helpful and informative. Our best chance of making it be responsive to your needs is to hear from you about what topics you would like us to cover. We look forward to hearing from you.

INSIDE THIS ISSUE

Safety Culture Act	2
Requirements & Recommendations.....	3
Questions & Answers.....	6
ERD Directory	8
Legal Costs Task Force.....	9
Changes Afoot	9
Acronyms.....	9
Who's Who in the Safety Bureau.....	10
Managed Care.....	10
More Acronyms.....	11
Speakers.....	11

Safety Culture Act Goes Into Effect

The Safety Bureau has begun work on the implementation of SB163, the Safety Culture Act, which went into effect May 1, 1994. The Act requires all employers in Montana to establish safety programs in the workplace and will establish safety training and educational programs in high schools and vo tech centers throughout the state.

Since the mechanics of implementing this bill required the Department to gather significant advice and comment prior to setting up the program, an advisory council, appointed by Commissioner of Labor and Industry, Laurie Ekanger, drafted the administrative rules. The advisory council met twice monthly to identify the basic components of the bill and have written administrative rules reflective of those components.

The intent of the Montana Safety Culture Act is to raise workplace safety to a preeminent position in the minds of all Montana's workers and employers.

By effectively promoting safety in workplaces and classrooms across Montana, we can achieve a reduction in the number of workplace injuries and illnesses, and gain more control of the costs of claims for worker's compensation insurance.

Why have a safety program?

Running a business involves taking risks. You some risks are not worth the gamble. health of your employees. hazards is a high stakes

The magnitude of the injury is gaining the attention professionals, and the state. a worker's injury or illness, you costs. Among these indirect costs are:

- \$ lost productive time;
- \$ time and cost of investigating the accident;
- \$ medical and treatment expenses;
- \$ cost of hiring and training replacements;
- \$ cost of replacement or repair of any damaged equipment;
- \$ cost of retraining the injured worker;
- \$ reduced morale of employees;
- \$ loss of productive attitude and loyalty ;
- \$ increased workers' compensation rates;
- \$ loss of good, reliable employees; and
- \$ loss of company image.

**ACCIDENTS COST
YOU MONEY**

take chances to remain competitive, but One such risk relates to the safety and Exposing those who work for you to game with real losses.

actual cost of a workplace accident or of businesses, corporations, safety

For each dollar you spend on the direct costs of will spend an equal amount or more to cover the indirect

You can reduce the costs associated with workplace injuries and illnesses by implementing an effective safety program. When you make safety a priority and actively promote safety to your employees, you can change your employees' behavior toward safety and reduce your number of workplace accidents.

Requirements and Recommendations

The requirements of the Safety Culture Act are to inform employers about what is needed to comply with the law. Recommendations are offered as guidelines for implementing workplace safety programs.

Recognizing the diversity of of the Act are intended to allow application so you and your establish a safety program appropriate to your business and circumstances. workers' comp insurer for assistance in establishing your safety program.

The requirements every employer must meet to comply with the Safety Culture Act are outlined in numbers 1 through 6 below. Following each requirement are recommendations for implementing that requirement.

**GAIN CONTROL
OF YOUR LOSSES**

Montana's economy, the administrative rules some flexibility of interpretation and workers' compensation insurer can appropriate to your business and You are encouraged to contact your insurance broker for assistance in implementing your safety program.

Every employer shall establish, implement and maintain an educational-based training program which shall, at a minimum:

1. Provide each new employee with a general safety orientation containing information common to all employees and appropriate to the business operations, before they begin their regular job duties.

RECOMMENDATIONS: The orientation should contain oral and written instruction and include, but not be limited to information on:

- ◆ accident & hazard reporting procedures;
- ◆ emergency procedures;
- ◆ fire safety;
- ◆ first aid;
- ◆ personal protective equipment; and
- ◆ work site hazards.

**Requirement:
Provide job or
task-specific
safety training**

2. Provide job or task-specific safety training appropriate for employees before they perform that job or task without direct supervision.

RECOMMENDATIONS: The training should:

- ◆ include specific safety rules, procedures and hazards;
- ◆ clearly identify the employer's and employee's responsibilities regarding safety in the workplace;
- ◆ be conducted by personnel knowledgeable of the task being trained; and
- ◆ be conducted when a program is established, when employee job assignments change, when new substances, processes, procedures or equipment are introduced to the workplace, and, when a new hazard is identified.

**Requirement:
Provide each
new employee
with a general
safety
orientation**

Requirement:
Offer continuing
regular refresher
safety training

3. Offer continuing regular refresher safety training.

RECOMMENDATIONS: The training should:

- ◆ be held as often as is appropriate, but at least annually; and
- ◆ contain material to maintain and expand knowledge and awareness of safety issues in the workplace.

4. Provide a system for the employer and their employees to develop an awareness and appreciation of safety through tools such as newsletters, periodic safety meetings, posters, and safety incentive programs.

Requirement: Provide a
system for the employer
and their employees to
develop an awareness
and appreciation of safety

Requirement: Provide
periodic self-inspection
for hazard assessment

5. Provide periodic self-inspection for hazard assessment when the safety program is implemented, new worksites are established and thereafter as is appropriate to the business operation, but at least annually, which:
 - ◆ identifies hazards and unsafe work practices or conditions;
 - ◆ identifies corrective actions needed; and
 - ◆ documents corrective action taken.

6. Include documentation of performance of activities listed in (1) through (5) above. This documentation should:
 - ◆ include date, time, location and description of training, inspections and corrective actions;
 - ◆ include a list of participants, i.e. inspectors, trainers, employees; and
 - ◆ must be retained by the employer for three years.

Requirement: Include
documentation of
performance



Additional Requirements of Employers With More Than Five Employees

Every employer who has more than five employees must meet the requirements listed on the previous two pages and must also meet the additional requirements listed below. In determining employment levels, the employer shall count all regular, temporary, leased and seasonal workers under the employer's direction and control. The following requirements apply when there are more than five employees, and continues in effect until the number of employees is less than six for three consecutive months.

All employers having more than five employees are to have a comprehensive and effective safety program which must include the mandatory elements listed on the previous two pages and must also include, but need not be limited to:

1. Policies and procedures that assign specific safety responsibilities and safety performance accountability.

Requirement: Policies and procedures that assign specific safety responsibilities and safety performance accountability

RECOMMENDATIONS: The policies and procedures should:

- ◆ include a statement of top management commitment to the safety program;
- ◆ encourage and motivate employee involvement in the safety program;
- ◆ define safety responsibilities for managers, safety personnel, supervisors and employees;
- ◆ be reflected in job descriptions and performance evaluations, if they exist; and
- ◆ be communicated and accessible to all employees.

Requirement: Procedures for reporting, investigating and taking corrective action

2. Procedures for reporting, investigating and taking corrective action on all work-related incidents, accidents, injuries, illnesses and known unsafe work conditions or practices.

RECOMMENDATIONS: Procedures should be nonpunitive and include, but need not be limited to:

- ◆ provisions for timely and effective reporting, investigating and for taking corrective action;
- ◆ recommendations and follow-up for corrective action
- ◆ documentation;
- ◆ signature requirement for reports, investigations and corrective actions; and
- ◆ periodic evaluation of the procedure's effectiveness.



Summer 1994

Note: The Department has temporarily withdrawn the Administrative Rule requiring the formation of safety committees in the workplace. However, in recognition of their effectiveness as a tool in reducing workplace injuries and illnesses, employers with more than five employees are encouraged to form safety committees.

Assistance Available

SAFETY CONSULTATION SERVICES.

The Montana Safety Culture Act requires insurers to provide assistance in identifying, evaluating, and controlling existing and potential accidental and occupational health problems.

Your insurer's safety consultation services will at least include:

- ◆ Surveys consisting of on-site identification and evaluation;
- ◆ Recommendations on the control of exposures;
- ◆ Training programs;
- ◆ Consultations;
- ◆ Accident analysis; and
- ◆ Industrial hygiene services.

Compliance

Workers' Compensation insurers and the State Fund will assist the employers they insure in establishing safety programs that meet the requirements of the law. Your workers' compensation insurance contract or agreement will require you to implement a safety program. If you fail to comply and refuse to participate in or follow through on recommendations resulting from safety consultation services offered by your workers' compensation insurer, your worker's compensation premium could increase. Contact your insurer for specific information on the consequences for noncompliance.

Questions & Answers



Do I need to have a safety program if I only hire one person for 1 or 2 months out of the year?

Yes. All employers are required to have a educational-based training program that includes the required elements.



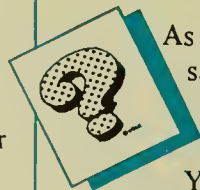
Do I have to pay employees for the time they attend safety training or a safety meeting even if it is held outside of their regular workday?

Yes. Montana's Wage and Hour laws require you to pay your employees for the time spent in a required meeting or training.



When I hire a new employee, does the general safety orientation have to be conducted the first day of employment?

The general safety orientation should be completed the first day a employee reports to work. This orientation should cover basic information such as the location of first aid kits, fire extinguishers, exits, and possible hazards. Task-specific safety training should be given within a reasonable time, not more than 30 days from the date of employment.



As a primary contractor, should my safety program cover sub-contractors?

Your safety program would not need to include provisions for subcontractors because they are not your employees as defined by the Workers' Compensation Act. However, you are encouraged to consider their needs in safety training and meetings as they can be an

continued on page 7



Summer 1994

Questions & Answers

(continued from page 6)

integral part of the workforce and their actions can influence your employees. Also keep in mind that if the subcontractor is an employer then they would be required to have their own safety program.

Documentation

Would documentation requirements be met by keeping a federal form on file that meets the basic requirements?

Yes. It is intended that you and your insurer have flexibility in developing a safety program that meets the needs of your business. Avoiding duplication is encouraged.

What record keeping is required?

Records of training new employees, safety meetings, and suggestions for improving safety in your workplace should be kept, but these records do not have to be sent to any state agencies.

Compliance

Who enforces the Safety Culture Act?

The purpose of the legislation is to actively promote safety in every workplace to reduce the number of occupational injuries and illnesses. It is intended that

voluntary safety compliance with the suggestions of your insurer can best achieve this goal. If your insurer is the State Fund, they have the authority to raise your premiums if you fail to implement a safety program.

Safety Committees

What is the status of safety committees?

Safety Committees are encouraged where the employer has more than five employees. During the process of adopting rules, both employers and employee organizations expressed concern that the activity of the proposed safety committees not result in violations of the National Labor Relations Act. Because this issue was not considered by the legislature, the safety committee rules were temporarily withdrawn for further consideration.



Contact the State Fund or your workers' compensation insurer if you have additional questions.



Summer 1994

EMPLOYMENT RELATIONS DIVISION DIRECTORY

The Employment Relations Division is open between 8:00 am and 5:00 pm, Monday through Friday.

Regulation Bureau

Uninsured Employers' Fund - 444-7734

- Workers' Comp Coverage Issues
- Penalty Assessments and Collections
- Claims Against Uninsured Employers
- Independent Contractor
- Compliance

Underinsured Employers' Fund - 444-7734

- Employer Education on Worker Classification
- Worker Classification Investigation
- Premium Fraud
- Penalty Assessments
- Compliance
- Field Audit
- Investigations and Compliance Assessments
- Assistance in Obtaining Workers' Comp
 - Great Falls - 761-1730
 - Billings - 652-3080
 - Missoula - 728-7060

Medical Regulation Unit - 444-0566

- Managed Care Certification
- Medical Fee Schedule
- Hospital Discount Factors
- Utilization and Treatment Guidelines
- Impairment Disputes

Plan I Unit - 444-6453

- Self-Insurance Program

Plan II Unit - 444-5632

- Extraterritorial Petitions
- Non-Subject Corporations
- Corporate Officer Rejections
- Trade Group Certification

Subsequent Injury Fund - 444-0566

Attorney Agreements - 444-0566

Silicosis Benefit Program - 444-7737

Claims Assistance Bureau

Claims Unit - 444-6530

- Orders Issued and Status of Orders Requested
- Settlements
- Lump Sum Payments
- Waiver of Claim Filing Time
- Extension of Medical Benefits
- Subrogation Orders
- Direction of Medical Examination
- Suspension of Temporary Total Disability Benefits
- Reinstate Benefits Pending a Hearing
- Fatality Order
- Rehabilitation Panels
- Information on:
 - MCA Statutes
 - Administrative Rules
 - Claim Filing
 - Employer Responsibilities
 - Benefits
 - Claim Processing Requirements
 - Occupational Disease

Data Analysis - 444-6513

- Right to File Letters
- Employers Coverage Information
- Claimant Information

Safety Bureau

Safety and Loss Control - 444-6418

- Mandatory Inspections (public sector)
- Safety Consultations (private sector)
- General Safety Training

Boiler Section - 444-6420

- Boiler Inspections
- Boiler Operator Examinations
- Crane Inspections
- Crane Operator Examinations
- Construction Blaster Examinations

Mining Section - 444-6419

- Coal Mine Inspections
- Mine Foreman Examinations
- Metal/non-metal Mine Inspections
- Mine Safety Training



Legal Costs Task Force Formed

John Weida

The Employment Relations Division (ERD) will be facilitating a Task Force to look at the collection of legal cost data. When the last Legislature tasked the Department of Labor and Industry to build a workers' compensation database, part of that mandate included "information on litigation and attorney involvement for the purpose of identifying trends, problem areas, and the costs of legal involvement."

The purpose, then, of the Legal Costs Task Force will be to advise ERD on the following questions: What data is relevant to collect and track? How should this be done (particular issues of concern are accuracy, method, frequency and cost effectiveness)? Can we collect and track defense attorney data? If so, how? How is the data to be used? What should be published, including how, when and where?

Membership of the Task Force includes claimant and defense attorneys, the Workers' Compensation Court, the Legislature, and an insurance adjuster.

Information gathered by this Task Force will be incorporated into ERD's development of the database and management information system.

Changes Afoot

Changes in Amount of Temporary Total Disability and Permanent Partial Disability Benefits and Interest Rate

Carol Glead

In June, the Department of Labor and Industry will announce changes in benefit amounts, the interest rate and COLA after the Department receives the information. We will mail the information to interested parties (insurance carriers, insurance adjusters, attorneys and anyone requesting the information from the

Employment Relations Division). These rates will become effective July 1, 1994. Mail your request to the Employment Relations Division, Claims Assistance Bureau, P.O. Box 8011, Helena, Montana, 59604-8011 or phone (406) 444-6530, Claims Assistance Bureau.

Acronyms

ARA	- Attorney Retainer Agreement
ASME	- American Society of Mechanical Engineers
AWW	- Average Weekly Wage
CAB	- Claims Assistance Bureau
CFR	- Code of Federal Regulations
CIH	- Certified Industrial Hygienist
CPT	- Current Procedural Terminology
CSHO	- Compliance Safety & Health Officer
CTS	- Carpal Tunnel Syndrome
D/A	- Date of Accident
DCI	- Detailed Claim Information
dBA	- Decibel (noise)
DOI	- Date of Injury
DOL	- Date of Loss
DRGs	- Diagnostic Related Groups
DX	- Diagnosis
EDI	- Electronic Data Interchange
ERD	- Employment Relations Division
ET	- Extraterritorial Agreement
FCE	- Functional Capacity Evaluation
GF	- Guaranty Fund
HazCom	- Hazard Communications
HAZMAT	- Hazardous Materials
HAZWOPER	- Hazardous Waste Operator Regulations
IBNR	- Incurred But Not Reported (claims)
IC	- Independent Contractor
ICD	- International Classification of Diseases
IH	- Industrial Hygienist



Who's Who in the Safety Bureau

The Safety Bureau is charged by the Montana Safety Act with the responsibility of administering the state's industrial safety laws. This involves employee safety inspections in a number of different areas. The goal is to minimize employee accidents and injuries in the public sector by complying with the intent of the Montana Safety Act and to support federally funded OSHA voluntary programs in the business sector.

- ◆ The Safety Consultation Section inspects hazardous workplaces and issues orders for correction of workplace hazards in order for employers to provide a safe work environment. Federal OSHA preempts the Safety Bureau from inspecting private places of business, so this activity pertains only to public employers. **Contact Dave Folsom - (406) 444-6418**

- ◆ The Mining Section is required to conduct inspections and investigations of surface and underground mines and related industries (gravel pits, crushing operations, cement plants, talc mills, etc.) and requires compliance with safety and health standards or orders. The Coal Mining Code directs the Department to conduct quarterly inspections of coal mines to order correction of workplace hazards. **Contact Ron Umscheid - (406) 444-6419**

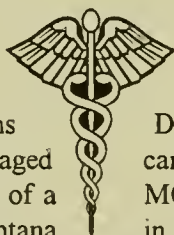
- A miners training grant with the Federal Mine Safety and Health Administration (MSHA) provides the Safety Bureau with funding to conduct safety training for small mine employers/employees. This training satisfies the federal training requirements for the mining industry. Mine operators are assisted in the development of acceptable training plans. **Contact Austin Leistiko - (406) 444-7793.**

- ◆ The Boiler Section is required to inspect all uninsured boilers annually (insurance companies inspect their client's boilers) and to examine and license qualified boiler operators. It is also responsible for examining and licensing crane/hoist operators and to investigate the status of current operators at construction sites in Montana. Construction blasting (testing and licensing of operators) also falls into the realm of the Boiler Section. **Contact Tim Gottsch - (406) 444-6420.**

Managed Care

Denny Zeiler

The Employment Relations provide a process to certify managed injured workers. The purpose of a tion of injured workers' in Montana



Division has implemented administrative rules to care organizations (MCO) to furnish medical services to MCO is to serve the medical needs of a defined popula- in an efficient and cost effective manner. The adminis- trative rules, which were the product of an advisory council consisting of insurers, medical provid- ers, legislators and department staff, were effective on March 1, 1994.

Managed care organizations are being established as a result of the passage of SB347, sponsored by Senator John Harp, by the 1993 Legislature. To date, the Employment Relations Division has received applications for certification from four organizations located in Missoula, Great Falls, Butte and Billings. Additional applications are expected from Missoula, Kalispell, Bozeman, Billings and several out-of-state organizations.

Once a MCO is certified, the organization will enter into agreements with insurers to provide medical services to claimants. Insurers will refer injured workers to managed care organizations when:

Continued on Page 12



Summer 1994

Speakers

The following areas have personnel available to speak on the listed subject areas. If you are interested in a presentation on one or more of these topics, please contact the appropriate section.

Insurance Compliance Section - 444-6542

- Uninsured Employer Fund
- Underinsured Employer Fund
- Misclassification
- Independent Contractors
- Audits
- Fraud/Abuse

Regulations Section - 444-7710

- Coverage Requirements/Exemptions
- Extraterritorial Coverage
- Self Insurance Requirements
- Private Insurer Requirements
- Medical Cost Containment
 - Medical Fee Schedule
 - Hospital Reimbursements
 - Managed Care Organizations
 - Utilization and Treatment Standards
- Impairment Dispute Process
- Attorney Fee Agreements
- Subsequent Injury Fund
- Temporary Workers
- Employee Leasing

Mediation Unit - 444-6534

- Mediation Process and Procedures

Safety and Loss Control - 444-1605

- Montana Safety Culture Act
- Assorted Safety and Health Topics

Mining - 444-1605

- Assorted Safety Topics (first aid, CPR, etc.)



MORE ACRONYMS

- IME - Independent Medical Evaluation
- MESA - Mining Enforcement & Safety Administration
- MCO - Managed Care Organization
- MIS - Management Information System
- MMI - Maximum Medical Improvement
- MSHA - Mine Safety and Health Admin
- NCCI - National Council on Compensation Insurance
- NEC - National Electrical Code
- NFC - National Fire Code
- NFPA - National Fire Protection Association
- NIOSH- National Institute for Occupational Safety & Health
- OD - Occupational Disease
- OSHA - Occupational Safety and Health Administration
- PPD - Permanent Partial Disability
- PTD - Permanent Total Disability
- POB - Part of Body
- PPO - Preferred Provider Organization
- PT - Physical Therapy
- RTW - Return to Work
- SIC - Standard Industrial Classification
- SIF - Subsequent Injury Fund
- SX - Symptoms
- TOI - Time of Injury
- TPD - Temporary Partial Disability
- TPA - Third Party Administrator
- TRB - Total Rehabilitation Benefits
- TTD - Temporary Total Disability
- UEF - Uninsured Employers' Fund
- UIEF - Underinsured Employers' Fund

To receive future editions of FOCUS
please return the enclosed card.
Thanks.



Managed Care *Continued from Page 10*

- ✕ The injury results in a total loss of wages for any duration;
- ✕ The injury will result in a permanent impairment;
- ✕ The injury results in the need for referral to another medical provider for specialized evaluation or treatment;
- ✕ Specialized diagnostic tests are required; or
- ✕ The injured worker wishes to change treating physicians.

If more than one MCO exists in an injured worker's community that have a contract with the insurer responsible for the worker's medical services, the injured worker may choose the MCO. Once the injured worker has entered an MCO, the MCO will designate a treating physician for the worker.

The implementation of managed care organizations is one of the key elements to achieve medical cost containment in the Montana workers' compensation system. Under the system, injured workers will be treated in a more efficient and effective manner which will reduce medical and wage loss benefits.

Persons or organizations having questions about the application process or features of managed care in Montana may contact Dennis Underwood, MCO Specialist, in the Employment Relations Division at 444-0567.

30,000 copies of this public document were published at an estimated cost of 42¢ per copy, for a total cost of \$12,600.00, which includes \$7,650.00 for printing and \$4,950.00 for distribution.

Department of Labor and Industry
Employment Relations Division
P.O. Box 1728
Helena, MT 59624-1728

POLICY NUMBER: 03-0170-30-2

LIBRARY COMMISSION
 ATTN: PERSONNEL OFFICER
 1515 E 6TH AVE
 HELENA MT 59601-4542



BLK. RT.

